

REMARKS

This amendment responds to the office action dated August 23, 2006.

The Examiner provisionally rejected claims 20-39 under 35 U.S.C. § 101 as claiming the same invention as co-pending application number 09/866,425. The applicant notes that the claims of the present application and the claims of the cited co-pending application differ in scope, hence the Examiner's statutory double patenting rejection is improper. Should co-pending application number 09/866,425 issue, the applicant will file a terminal disclaimer that overcomes any appropriate non-statutory double patenting rejection.

The Examiner rejected claims 20-39 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Landsman et al., U.S. Pat. Pub. No. 2003/0004804 (hereinafter Landsman) in view of Pornrodeo (source code of www.pornrodeo.com as of 15 November 1999) (hereinafter Pornrodeo). The applicant respectfully requests that the Examiner withdraw this rejection because, as amended, the rejected claims distinguish over the cited combination in that Landsman (1) teaches away from the claimed subject matter; (2) the proposed combination would render Landsman unsatisfactory for its intended purpose; and (3) the proposed combination would change the principle of operation of Landsman. *See* MPEP §§ 2141.02; 2143.01; 2143.02; 2145 X(D)(2).

Landsman discloses a system for displaying advertising material to a person browsing the Internet during an interstitial, i.e., the gap in time when a person browses from one web address to the next. *See e.g.*, Landsman at paragraphs 0016 and 0087. Landsman further discloses that an Internet browser, upon connection to a web address that includes the disclosed advertising system may download an Adcontroller file (Adcontroller) that controls the further downloading and playing of plural advertisements. *Id.* at paragraphs 0087 and 0089. Adcontroller "politely" downloads advertisements into the browser memory to form a queue. *Id.* at paragraphs 0104, 0139 and 0143.

When the Adcontroller detects an interstitial, it checks to see whether the first advertisement in the queue in browser cache memory is fully loaded. If so, then the Adcontroller plays the advertisement as soon as the interstitial begins, in the foreground browser being navigated. *Id.* at 0109. During play of the advertisement, the next web page is downloaded into

browser memory while further downloading of advertisements into the queue is paused. Once the advertisement is finished playing, and if the next web page is fully loaded into memory, that web page is displayed and further downloading of advertisements into the queue is continued. If the next web page is not yet loaded into browser memory, the next advertisement in the queue may be played.

Thus, Landsman discloses two essential teachings to the interstitial advertisement method: (1) advertisements to be presented to a viewer are loaded into a browser present in the foreground, but during an interstitial; and (2) an advertisement is not to be presented to a user at a time in which the advertisement would obscure all or a portion of content loaded in a browser and to which the user chose to navigate.

The method of Pornrodeo, however, contradicts the teachings of Landsman, in that Pornrodeo discloses that a first browser may include a link to a second site and load that site into a separate browser, in the background with respect to the browser being navigated. As proposed, the Examiner suggests that the combination of Landsman and Pornrodeo teaches loading an advertisement into a browser in a background window while another browser is simultaneously displayed in a foreground window. *See* Office Action at p. 6. This combination, however, changes the very principle of operation of Landsman, the primary reference, which teaches exactly the opposite, i.e. loading an advertisement into a browser in the foreground of a platform during an interstitial. Therefore, the Examiner's rejection is improper. See MPEP § 2143.01 VI ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.").

Moreover, each of the independent claims, as amended, includes limitations that Landsman either specifically teach away from, or if realized, would render Landsman unsatisfactory for its intended purpose. Independent claim 20, from which claims 21-24 and 26-29 respectively depend, includes the limitations of "wherein said first browser is moved to a said background window and said second browser is moved to a said foreground window obscuring at least a portion of said first browser in response to a view triggering event." Landsman not only intends for an advertisement to be viewed in the very browser that a viewer is navigating, but specifically teaches away from obscuring any portion of the content of that browser, because to

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do so would not be “polite.” Similarly, independent claim 30, from which claims 31-34 and 36-39 respectively depend, includes the limitation of “moving said first browser to a said background window and moving said second browser to a said foreground window obscuring at least a portion of said first browser in response to a view triggering event.” Finally, new independent claim 40, from which claim 41 depends, includes the limitations of “an event handler that . . . loads said advertisement into said second browser while said second browser is in a said background window such that said advertisement, when loaded, is at least partially obscured by said first browser” and “wherein said first and second browsers are free from instructions moving said second browser to a said foreground window that obscures any portion of said first browser.” If both of these latter limitations are carried out, a queued advertisement would never be presented during an interstitial of the first browser, and multiple advertisements could never be timed to be sequentially presented out of the queue.

For each of these reasons, the Examiner’s rejection of all pending claims should be withdrawn.

In view of the foregoing amendments and remarks, the applicant respectfully requests reconsideration and allowance of claims 20-24, 30-34, and 36-41.

Respectfully submitted,



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